

PART II – CONTRACT CLAUSES

SECTION I

CONTRACT CLAUSES

I.1 FAR 52.252-2, CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This Contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at these addresses:

<http://www.arnet.gov/far/>

<http://professionals.pr.doe.gov/>

Clause No.	FAR/DEAR Reference	Title	Fill-In Information (see FAR 52.104(d))
I.2	FAR 52.202-1	Definitions (JUL 2004) as modified by DEAR 952.202-1 (MAR 2002)	None
I.3	FAR 52.203-3	Gratuities (APR 1984)	None
I.4	FAR 52.203-5	Covenant Against Contingent Fees (APR 1984)	None
I.5	FAR 52.203-6	Restrictions on Subcontractor Sales to the Government (SEPT 2006)	None
I.6	FAR 52.203-7	Anti-Kickback Procedures (JUL 1995)	None
I.7	FAR 52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (JAN 1997)	None
I.8	FAR 52.203-10	Price or Fee Adjustment for Illegal or Improper Activity (JAN 1997)	None
I.9	FAR 52.203-12	Limitations on Payments to Influence Certain Federal Transactions (SEPT 2007)	None
I.10	FAR 52.203-13	Contractor Code Of Business Ethics And Conduct (DEC 2007)	None
I.11	FAR 52.204-4	Printed or Copied Double-Sided on Recycled Paper (AUG 2000)	None
I.12	FAR 52.204-7	Central Contractor Registration (APR 2008)	None
I.13	FAR 52.204-9	Personal Identity Verification of Contractor Personnel (SEPT 2007)	None
I.14	FAR 52.209-6	Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended or Proposed for Debarment (SEPT 2006)	None
I.15	FAR 52.215-2	Audit and Records – Negotiation (JUN 1999)	None
I.16	FAR 52.215-8	Order of Precedence – Uniform Contract Format (OCT 1997)	None

Clause No.	FAR/DEAR Reference	Title	Fill-In Information (see FAR 52.104(d))
I.17	FAR 52.215-11	Price Reduction for Defective Cost or Pricing Data – Modifications (OCT 1997)	None
I.18	FAR 52.215-13	Subcontractor Cost or Pricing Data – Modifications (OCT 1997)	None
I.19	FAR 52.215-14	Integrity of Unit Prices (OCT 1997)	None
I.20	FAR 52.215-15	Pension Adjustments and Asset Reversions (OCT 2004)	None
I.21	FAR 52.215-17	Waiver of Facilities Capital Cost of Money (OCT 1997)	None
I.22	FAR 52.215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions (JUL 2005)	None
I.23	FAR 52.217-8	Option to Extend Services (NOV 1999)	180 to 30 days prior to the expiration date of this Contract
I.24	FAR 52.217-9	Option to Extend the Term of the Contract (MAR 2000)	(a) 30 days prior to the expiration date of this Contract (c) 10 years excluding the Transition Period
I.25	FAR 52.219-4	Notice of Price Evaluation Preference for HUBZone Small Business Concerns (JUL 2005)	(c) Offeror fill-in
I.26	FAR 52.219-8	Utilization of Small Business Concerns (MAY 2004)	None
I.27	FAR 52.219-9	Small Business Subcontracting Plan (APR 2008) – Alternate II (OCT 2001)	None
I.28	FAR 52.219-16	Liquidated Damages – Subcontracting Plan (JAN 1999)	None
I.29	FAR 52.219-25	Small Disadvantaged Business Participation Program – Disadvantaged Status and Reporting (APR 2008)	None
I.30	FAR 52.219-28	Post-Award Small Business Program Representation (JUN 2007)	Fill-in
I.31	FAR 52.222-1	Notice to the Government of Labor Disputes (FEB 1997)	None
I.32	FAR 52.222-2	Payment for Overtime Premiums (JUL 1990)	(a) The percentage specified in the Section H Clause entitled, Overtime Control Plan
I.33	FAR 52.222-3	Convict Labor (JUN 2003)	None
I.34	FAR 52.222-4	Contract Work Hours and Safety Standards Act – Overtime Compensation (JUL 2005)	None
I.35	FAR 52.222-6	Davis-Bacon Act (JUL 2005)	None
I.36	FAR 52.222-7	Withholding of Funds (FEB 1988)	None
I.37	FAR 52.222-8	Payrolls and Basic Records (FEB 1988)	None
I.38	FAR 52.222-9	Apprentices and Trainees (JUL 2005)	None

Clause No.	FAR/DEAR Reference	Title	Fill-In Information (see FAR 52.104(d))
I.39	FAR 52.222-10	Compliance with Copeland Act Requirements (FEB 1988)	None
I.40	FAR 52.222-11	Subcontracts (Labor Standards) (JUL 2005)	None
I.41	FAR 52.222-12	Contract Termination – Debarment (FEB 1988)	None
I.42	FAR 52.222-13	Compliance with Davis-Bacon and Related Act Regulations (FEB 1988)	None
I.43	FAR 52.222-14	Disputes Concerning Labor Standards (FEB 1988)	None
I.44	FAR 52.222-15	Certification of Eligibility (FEB 1988)	None
I.45	FAR 52.222-16	Approval of Wage Rates (FEB 1988)	None
I.46	FAR 52.222-21	Prohibition of Segregated Facilities (FEB 1999)	None
I.47	FAR 52.222-26	Equal Opportunity (MAR 2007)	None
I.48	FAR 52.222-27	Affirmative Action Compliance Requirements for Construction (FEB 1999)	None
I.49	FAR 52.222-30	Davis-Bacon Act—Price Adjustment (None or Separately Specified Method) (DEC 2001)	None
I.50	FAR 52.222-35	Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEPT 2006)	None
I.51	FAR 52.222-36	Affirmative Action for Workers with Disabilities (JUN 1998)	None
I.52	FAR 52.222-37	Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEPT 2006)	None
I.53	FAR 52.222-41	Service Contract Act of 1965, As Amended (NOV 2007)	None
I.54	FAR 52.222-50	Combating Trafficking in Persons (AUG 2007)	None
I.55	FAR 52.223-3	Hazardous Material Identification and Material Safety Data (Jan 1997) – Alternate I (JUL 1995)	(b) Offeror fill-in
I.56	FAR 52.223-5	Pollution Prevention and Right-to-Know Information as modified by DOE Acquisition Letter 2008-05 (APR 2008)	None
I.57	FAR 52.223-6	Drug Free Workplace (MAY 2001)	None
I.58	FAR 52.223-9	Estimate Of Percentage Of Recovered Material Content For EPA-Designated Products (MAY 2008)	(b)(2) CO
I.59	FAR 52.223-10	Waste Reduction Program as modified b DOE Acquisition Letter 2008-05 (APR 2008)	None
I.60	FAR 52.223-12	Refrigeration Equipment and Air Conditioners (MAY 1995)	None
I.61	FAR 52.223-14	Toxic Chemical Release Reporting (AUG 2003)	None
I.62	FAR 52.224-1	Privacy Act Notification (APR 1984)	None
I.63	FAR 52.224-2	Privacy Act (APR 1984)	None
I.64	FAR 52.225-1	Buy American Act – Supplies (JUN 2003)	None
I.65	FAR 52.225-11	Buy American Act –Construction Materials Under Trade Agreements (AUG 2007)	
I.66	FAR 52.225-12	Notice of Buy American Act Requirement – Construction Materials Under Trade Agreements (JAN 2005)	
I.67	FAR 52.225-13	Restrictions on Certain Foreign Purchases (JUN 2008)	None
I.68	FAR 52.227-1	Authorization and Consent (DEC 2007)	None
I.69	FAR 52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (DEC 2007)	None

Clause No.	FAR/DEAR Reference	Title	Fill-In Information (see FAR 52.104(d))
I.70	FAR 52.227-3	Patent Indemnity (APR 1984)	None
I.71	FAR 52.227-6	Royalty Information (APR 1984)	None
I.72	FAR 52.227-9	Refund of Royalties (APR 1984)	None
I.73	FAR 52.227-23	Rights to Proposal Data (Technical) (JUN 1987)	None
I.74	FAR 52.230-2	Cost Accounting Standards (OCT 2008)	None
I.75	FAR 52.230-6	Administration of Cost Accounting Standards (MAR 2008)	None
I.76	FAR 52.232-9	Limitation on Withholding of Payments (APR 1984)	None
I.77	FAR 52.232-17	Interest (OCT 2008)	None
I.78	FAR 52.232-22	Limitation of Funds (APR 1984)	None
I.79	FAR 52.232-23	Assignment of Claims (JAN 1986)	None
I.80	FAR 52.232-25	Prompt Payment (OCT 2008) – Alternate I (FEB 2002)	None
I.81	FAR 52.232-33	Payment of Electronic Funds Transfer – Central Contractor Registration (OCT 2003)	None
I.82	FAR 52.233-1	Disputes (JUL 2002) – Alternate I (DEC 1991)	None
I.83	FAR 52.233-3	Protest After Award (AUG 1996) – Alternate I (JUN 1985)	None
I.84	FAR 52.233-4	Applicable Law for Breach of Contract Claim (OCT 2004)	None
I.85	FAR 52.234-4	Earned Value Management System (JUL 2006)	(g) Contracting Officer fill-in at award
I.86	FAR 52.236-2	Differing Site Conditions (APR 1984)	None
I.87	FAR 52.236-3	Site Investigation and Conditions Affecting the Work (APR 1984)	None
I.88	FAR 52.236-5	Material and Workmanship (APR 1984)	None
I.89	FAR 52.236-7	Permits and Responsibilities (NOV 1991)	None
I.90	FAR 52.236-18	Work Oversight in Cost Reimbursement Construction Contracts (APR 1984)	None
I.91	FAR 52.236-19	Organization and Direction of the Work (APR 1984)	None
I.92	FAR 52.237-2	Protection of Government Buildings, Equipment, and Vegetation (APR 1984)	None
I.93	FAR 52.237-3	Continuity of Services (JAN 1991)	None
I.94	FAR 52.239-1	Privacy or Security Safeguards (AUG 1996)	None
I.95	FAR 52.242-1	Notice of Intent to Disallow Costs (APR 1984)	None
I.96	FAR 52.242-3	Penalties for Unallowable Costs (MAY 2001)	None
I.97	FAR 52.242-4	Certification of Final Indirect Costs (JAN 1997)	None
I.98	FAR 52.242-13	Bankruptcy (JUL 1995)	None
I.99	FAR 52.243-2	Changes – Cost Reimbursement (AUG 1987) – Alternate II (APR 1984), and Alternate III (APR 1984)	None
I.100	FAR 52.243-6	Change Order Accounting (APR 1984)	None
I.101	FAR 52.243-7	Notification of Changes (APR 1984)	(b) 10 (d) 30
I.102	FAR 52.244-2	Subcontracts (JUN 2007) – Alternate I (JUN 2007)	(e), (k) Contracting Officer fill-in at award
I.103	FAR 52.244-5	Competition in Subcontracting (DEC 1996)	None

Clause No.	FAR/DEAR Reference	Title	Fill-In Information (see FAR 52.104(d))
I.104	FAR 52.244-6	Subcontracts for Commercial Items (MAR 2007)	None
I.105	FAR 52.245-1	Government Property (JUN 2007)	None
I.106	FAR 52.245-9	Use and Charges (JUN 2007)	None
I.107	FAR 52.246-25	Limitation of Liability – Services (FEB 1997)	None
I.108	FAR 52.247-1	Commercial Bill of Lading Notations (FEB 2006)	(a) Department of Energy (b) Department of Energy Contract No. DE-RP30-09CC40017, the Contract Administration Office specified in the Section G Clause entitled, Contract Administration
I.109	FAR 52.247-68	Report of Shipment (REPSHIP) (FEB 2006)	None
I.110	FAR 52.248-1	Value Engineering (FEB 2000)	
I.111	FAR 52.249-6	Termination (Cost Reimbursement) (MAY 2004)	None
I.112	FAR 52.249-14	Excusable Delays (APR 1984)	None
I.113	FAR 52.251-1	Government Supply Sources (APR 1984)	None
I.114	FAR 52.251-2	Interagency Fleet Management System Vehicles and Related Services (JAN 1991)	None
I.115	FAR 52.253-1	Computer Generated Forms (JAN 1991)	None
I.116	DEAR 952.203-70	Whistleblower Protection for Contractor Employees (DEC 2000)	None
I.117	DEAR 952.204-2	Security Requirements (MAY 2002)	None
I.118	DEAR 952.204-70	Classification/Declassification (SEPT 1997)	None
I.119	DEAR 952.204-75	Public Affairs (DEC 2000)	None
I.120	DEAR 952.208-7	Tagging of Leased Vehicles (APR 1984)	None
I.121	DEAR 952.208-70	Printing (APR 1984)	None
I.122	DEAR 952.209-72	Organizational Conflicts of Interest Alternate I (JUN 1997)	None
I.123	DEAR 952.215-70	Key Personnel (DEC 2000)	None
I.124	FAR 52.216-7/ DEAR 952.216-7	Allowable Cost and Payment (DEC 2002); Alternate II	(a) (3) 30 th
I.125	DEAR 952.223-75	Preservation of Individual Occupational Radiation Exposure Records (APR 1984)	None
I.126	DEAR 952.224-70	Paperwork Reduction Act (APR 1994)	None
I.127	DEAR 952.227-11	Patent Rights-Retention by the Contractor (Short Form) (FEB 1995)	None
I.128	DEAR 952.227-13	Patent Rights-Acquisition by the Government (SEP 1997)	None

Clause No.	FAR/DEAR Reference	Title	Fill-In Information (see FAR 52.104(d))
I.129	DEAR 952.227-82	Rights to Proposal Data (APR 1994)	Offeror fill-in
I.130	DEAR 952.227-84	Right to Request Patent Waiver (FEB 1998)	None
I.131	DEAR 952.231-71	Insurance -- Litigation and Claims (APR 2002)	None
I.132	DEAR 952.242-70	Technical Direction (DEC 2000)	None
I.133	DEAR 952.247-70	Foreign Travel (DEC 2000)	None
I.134	DEAR 952.250-70	Nuclear Hazards Indemnity Agreement (JUN 1996)	None
I.135	DEAR 952.251-70	Contractor Employee Travel Discounts (DEC 2000)	None
I.136	DEAR 970.5204-1	Counterintelligence (DEC 2000)	None
I.137	DEAR 970.5204-2	Laws, Regulations, and DOE Directives (DEC 2000)	None
I.138	DEAR 970.5204-3	Access to and Ownership of Records (JUL 2005)	(b)(1) through (b)(5) are Contractor-owned records.
I.139	DEAR 970.5223-1	Integration of Environment, Safety, and Health Into Work Planning and Execution (DEC 2000)	None
I.140	DEAR 970.5227-1	Rights in Data – Facilities- (DEC 2000)	None
I.141	DEAR 970.5229-1	State and Local Taxes (DEC 2000)	None
I.142	DEAR 970.5231-4	Preexisting Conditions (DEC 2000) Alternate II (DEC 2000)	Contracting Officer fill-in at award
I.143	DEAR 970.5232-5.	Liability with Respect to Cost Accounting Standards (DEC 2000)	None

I.144 FAR 52.215-19, NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997)

(a) The Contractor shall make the following notifications in writing:

- (1) When the Contractor becomes aware that a change in its ownership has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify the Administrative Contracting Officer (ACO) within 30 days.
- (2) The Contractor shall also notify the ACO within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership.

(b) The Contractor shall—

- (1) Maintain current, accurate, and complete inventory records of assets and their costs;
- (2) Provide the ACO or designated representative ready access to the records upon request;

- (3) Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's ownership changes; and
- (4) Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership change.
- (c) The Contractor shall include the substance of this clause in all subcontracts under this Contract that meet the applicability requirement of FAR 15.408(k).

I.145 FAR 52.222-39, NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES (DEC 2004)

- (a) Definition. As used in this clause—"United States" means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.
- (b) Except as provided in paragraph (e) of this clause, during the term of this contract, the Contractor shall post a notice, in the form of a poster, informing employees of their rights concerning union membership and payment of union dues and fees, in conspicuous places in and about all its plants and offices, including all places where notices to employees are customarily posted. The notice shall include the following information (except that the information pertaining to National Labor Relations Board shall not be included in notices posted in the plants or offices of carriers subject to the Railway Labor Act, as amended (45 U.S.C. 151-188)).

Notice to Employees

Under Federal law, employees cannot be required to join a union or maintain membership in a union in order to retain their jobs. Under certain conditions, the law permits a union and an employer to enter into a union-security agreement requiring employees to pay uniform periodic dues and initiation fees. However, employees who are not union members can object to the use of their payments for certain purposes and can only be required to pay their share of union costs relating to collective bargaining, contract administration, and grievance adjustment.

If you do not want to pay that portion of dues or fees used to support activities not related to collective bargaining, contract administration, or grievance adjustment, you are entitled to an appropriate reduction in your payment. If you believe that you have been required to pay dues or fees used in part to support activities not related to collective bargaining, contract administration, or grievance adjustment, you may be entitled to a refund and to an appropriate reduction in future payments.

For further information concerning your rights, you may wish to contact the National Labor Relations Board (NLRB) either at one of its Regional offices or at the following address or toll free number:

National Labor Relations Board
Division of Information
1099 14th Street, N.W.
Washington, DC 20570
1-866-667-6572
1-866-316-6572 (TTY)

To locate the nearest NLRB office, see NLRB's website at <http://www.nlr.gov>.

- (c) The Contractor shall comply with all provisions of Executive Order 13201 of February 17, 2001, and related implementing regulations at 29 CFR Part 470, and orders of the Secretary of Labor.
- (d) In the event that the Contractor does not comply with any of the requirements set forth in paragraphs (b), (c), or (g), the Secretary may direct that this contract be cancelled, terminated, or suspended in whole or in part, and declare the Contractor ineligible for further Government contracts in accordance with procedures at 29 CFR Part 470, Subpart B—Compliance Evaluations, Complaint Investigations and Enforcement Procedures. Such other sanctions or remedies may be imposed as are provided by 29 CFR Part 470, which implements Executive Order 13201, or as are otherwise provided by law.
- (e) The requirement to post the employee notice in paragraph (b) does not apply to—
 - (1) Contractors and subcontractors that employ fewer than 15 persons;
 - (2) Contractor establishments or construction work sites where no union has been formally recognized by the Contractor or certified as the exclusive bargaining representative of the Contractor's employees;
 - (3) Contractor establishments or construction work sites located in a jurisdiction named in the definition of the United States in which the law of that jurisdiction forbids enforcement of union-security agreements;
 - (4) Contractor facilities where upon the written request of the Contractor, the Department of Labor Deputy Assistant Secretary for Labor-Management Programs has waived the posting requirements with respect to any of the Contractor's facilities if the Deputy Assistant Secretary finds that the Contractor has demonstrated that—
 - (i) The facility is in all respects separate and distinct from activities of the Contractor related to the performance of a contract; and
 - (ii) Such a waiver will not interfere with or impede the effectuation of the Executive order; or
 - (5) Work outside the United States that does not involve the recruitment or employment of workers within the United States.

- (f) The Department of Labor publishes the official employee notice in two variations; one for contractors covered by the Railway Labor Act and a second for all other contractors. The Contractor shall—
- (1) Obtain the required employee notice poster from the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-5605, Washington, DC 20210, or from any field office of the Department's Office of Labor-Management Standards or Office of Federal Contract Compliance Programs;
 - (2) Download a copy of the poster from the Office of Labor-Management Standards website at <http://www.olms.dol.gov>; or
 - (3) Reproduce and use exact duplicate copies of the Department of Labor's official poster.
- (g) The Contractor shall include the substance of this clause in every subcontract or purchase order that exceeds the simplified acquisition threshold, entered into in connection with this contract, unless exempted by the Department of Labor Deputy Assistant Secretary for Labor-Management Programs on account of special circumstances in the national interest under authority of 29 CFR 470.3(c). For indefinite quantity subcontracts, the Contractor shall include the substance of this clause if the value of orders in any calendar year of the subcontract is expected to exceed the simplified acquisition threshold. Pursuant to 29 CFR Part 470, Subpart B—Compliance Evaluations, Complaint Investigations and Enforcement Procedures, the Secretary of Labor may direct the Contractor to take such action in the enforcement of these regulations, including the imposition of sanctions for noncompliance with respect to any such subcontract or purchase order. If the Contractor becomes involved in litigation with a subcontractor or vendor, or is threatened with such involvement, as a result of such direction, the Contractor may request the United States, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.

**I.146 FAR 52.222-42, STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES
(MAY 1989)**

In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

This Statement is for Information Only: It is not a Wage Determination

Employee Class	Monetary Wage—Fringe Benefits
Accounting Clerk I	12.47
Accounting Clerk II	14.00
Admin Assistant	19.41
Chemical Operator	17.84
Dosimetry Technician	15.67
Drafter III	17.46
Drafter IV	21.49
Engineering Aide I	11.28
Engineer Aide II	12.47
Engineer Aide III	14.00
Engineer Technician I	12.47
Environmental/Laboratory Technician II	17.46
Environmental/Laboratory Technician III	19.41
Executive Assistant	23.74
Facilities Coordinator	15.67
Finance Clerk	14.00
General Clerk I	11.28
General Clerk II	12.47
Haz Mat Technician Specialist	17.84
Health Physics Technician III	19.41
Industrial Vacuum Loader Operator	17.84
Instrument Mechanic	22.82
Information/Records Specialist II	15.67
Information/Records Specialist III	17.46
Information Mgmt. Technician II	19.41
Inventory Supply Specialist	16.55
Laborer, Transportation	12.63
Lead Mailroom Supply Specialist	16.55
Locomotive/Switchman	19.16
Material Coordinator	19.16
Medical Assistant	14.00
Millwright	22.82
Office Manager	28.72
Pipefitter	22.82
Planning/Control Analyst B	23.74
Plant System Operator	21.76

Plant System Senior Operations Specialist	22.82
Private Motor Carrier Operator	19.16
Procurement Coordinator	15.67
Procurement Technician II	15.67
Procurement Technician III	19.41
Professional Warehouse Attendant	15.24
Project Control Analyst	23.74
QA Checker	12.47
QA Specialist	15.67
QA Technician	19.41
QA/QC Engineer	17.46
Quality Verifier II	15.67
Radiological Control Engineer	17.46
Radiation Control Technician III	19.41
Radiation Control Technician Specialist	15.67
Radiochemistry Technician	19.41
Records Clerk	14.00
Records Specialist	19.41
Regulatory Specialist	19.41
Respirator Wash	12.63
Rigger	22.82
Safety Technician Specialist	15.67
Secretary I	14.00
Secretary II	15.67
Secretary III	17.46
Training Administrator	23.74
Word Processor III	15.67

**I.147 FAR 52.223-5, POLLUTION PREVENTION AND RIGHT TO KNOW INFORMATION
AS MODIFIED BY DOE ACQUISITION LETTER 2008-05 (APR 2008)**

- (a) Definitions. As used in this clause—
 - “Priority chemical” means a chemical identified by the Interagency Environmental Leadership Workgroup or, alternatively, by an agency pursuant to Implementing Instruction VIII of Executive Order 13423, Greening the Government through Leadership in Environmental Management.
 - “Toxic chemical” means a chemical or chemical category listed in 40 CFR 372.65.
- (b) Executive Order 13423 requires Federal facilities to comply with the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA)

(42 U.S.C. 11001-11050) and the Pollution Prevention Act of 1990 (PPA)
(42 U.S.C. 13101-13109).

- (c) The Contractor shall provide all information needed by the Federal facility to comply with the following:
- (1) The emergency planning reporting requirements of Section 302 of EPCRA.
 - (2) The emergency notice requirements of Section 304 of EPCRA.
 - (3) The list of Material Safety Data Sheets, required by Section 311 of EPCRA.
 - (4) The emergency and hazardous chemical inventory forms of Section 312 of EPCRA.
 - (5) The toxic chemical release inventory of Section 313 of EPCRA, which includes the reduction and recycling information required by Section 6607 of PPA.
 - (6) The toxic chemical, priority chemical, and hazardous substance release and use reduction goals of Implementing Instruction VIII of Executive Order 13423.

**I.148 FAR 52.223-10, WASTE REDUCTION PROGRAM AS MODIFIED BY DOE
ACQUISITION LETTER 2008-05 (APR 2008)**

- (a) Definitions. As used in this clause—
“Recycling” means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of products other than fuel for producing heat or power by combustion.
“Waste prevention” means any change in the design, manufacturing, purchase, or use of materials or products (including packaging) to reduce their amount or toxicity before they are discarded. Waste prevention also refers to the reuse of products or materials.
“Waste reduction” means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.
- (b) Consistent with the requirements of Section 3(a) of Executive Order 13423, the Contractor shall establish a program to promote cost-effective waste reduction in all operations and facilities covered by this contract. The Contractor’s programs shall comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962, et seq.) and implementing regulations (40 CFR Part 247).

I.149 FAR 52.223-11, OZONE-DEPLETING SUBSTANCES (MAY 2001)

- (a) Definition. "Ozone-depleting substance," as used in this clause, means any substance the Environmental Protection Agency designates in 40 CFR Part 82 as—
- (1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or
 - (2) Class II, including, but not limited to, hydrochlorofluorocarbons.
- (b) The Contractor shall label products which contain or are manufactured with ozone-depleting substances in the manner and to the extent required by 42 U.S.C. 7671j (b), (c), and (d) and 40 CFR Part 82, Subpart E, as follows:

WARNING: Contains (or manufactured with, if applicable) *
_____, a substance(s) which harm(s) public health and
environment by destroying ozone in the upper atmosphere.

* The Contractor shall insert the name of the substance(s).

I.150 FAR 52.225-11, BUY AMERICAN ACT—CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (NOV 2006)

- (a) Definitions. As used in this clause—

"Caribbean Basin country construction material" means a construction material that—

- (1) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different construction material distinct from the materials from which it was transformed.

"Component" means an article, material, or supply incorporated directly into a construction material.

"Construction material" means an article, material, or supply brought to the construction site by the Contractor or subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

“Cost of components” means—

- (1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the construction material (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
- (2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

“Designated country” means any of the following countries:

- (1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, or United Kingdom);
- (2) A Free Trade Agreement country (Australia, Bahrain, Canada, Chile, El Salvador, Guatemala, Honduras, Mexico, Morocco, Nicaragua, or Singapore);
- (3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Cape Verde, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, East Timor, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or
- (4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Montserrat, Netherlands Antilles, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, or Trinidad and Tobago).

“Designated country construction material” means a construction material that is a WTO GPA country construction material, an FTA country construction material, a least developed country construction material, or a Caribbean Basin country construction material.

“Domestic construction material” means—

- (1) An unmanufactured construction material mined or produced in the United States; or

- (2) A construction material manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic.

“Foreign construction material” means a construction material other than a domestic construction material.

“Free Trade Agreement country construction material” means a construction material that—

- (1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a FTA country into a new and different construction material distinct from the materials from which it was transformed.

“Least developed country construction material” means a construction material that—

- (1) Is wholly the growth, product, or manufacture of a least developed country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.

“United States” means the 50 States, the District of Columbia, and outlying areas.

“WTO GPA country construction material” means a construction material that—

- (1) Is wholly the growth, product, or manufacture of a WTO GPA country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.

(b) Construction materials.

- (1) This clause implements the Buy American Act (41 U.S.C. 10a-10d) by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the WTO GPA and Free Trade Agreements (FTAs) apply to this acquisition. Therefore, the Buy American Act restrictions are waived for designated country construction materials.

- (2) The Contractor shall use only domestic or designated country construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.
 - (3) The requirement in paragraph (b)(2) of this clause does not apply to the construction materials or components listed by the Government as follows:

None
 - (4) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(3) of this clause if the Government determines that—
 - (i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the restrictions of the Buy American Act is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;
 - (ii) The application of the restriction of the Buy American Act to a particular construction material would be impracticable or inconsistent with the public interest; or
 - (iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.
- (c) Request for determination of inapplicability of the Buy American Act.
- (1) (i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including—
 - (A) A description of the foreign and domestic construction materials;
 - (B) Unit of measure;
 - (C) Quantity;
 - (D) Price;
 - (E) Time of delivery or availability;
 - (F) Location of the construction project;
 - (G) Name and address of the proposed supplier; and
 - (H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.

- (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.
 - (iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).
 - (iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.
- (2) If the Government determines after contract award that an exception to the Buy American Act applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(4)(i) of this clause.
- (3) Unless the Government determines that an exception to the Buy American Act applies, use of foreign construction material is noncompliant with the Buy American Act.
- (d) Data. To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Construction Materials Price Comparison			
Construction Material Description	Unit of Measure	Quantity	Price (Dollars) ¹
Item 1:			
Foreign construction material
Domestic construction material
Item 2:			
Foreign construction material
Domestic construction material

¹ Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).

List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.

Include other applicable supporting information.

I.151 FAR 52.247-67, SUBMISSION OF COMMERCIAL TRANSPORTATION BILLS TO THE GENERAL SERVICES ADMINISTRATION FOR AUDIT (FEB 2006)

- (a) The Contractor shall submit to the address identified below, for prepayment audit, transportation documents on which the United States will assume freight charges that were paid—
 - (1) By the Contractor under a cost-reimbursement contract; and
 - (2) By a first-tier subcontractor under a cost-reimbursement subcontract thereunder.
- (b) Cost-reimbursement Contractors shall only submit for audit those bills of lading with freight shipment charges exceeding \$100. Bills under \$100 shall be retained on-site by the Contractor and made available for on-site audits. This exception only applies to freight shipment bills and is not intended to apply to bills and invoices for any other transportation services.
- (c) Contractors shall submit the above referenced transportation documents to—

General Services Administration
Attn: FWA
1800 F Street NW
Washington, DC 20405

I.152 FAR 52.252-6, AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)

- (a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of “(DEVIATION)” after the date of the clause.
- (b) The use in this solicitation or contract of any Department of Energy Acquisition Regulation (48 CFR Chapter 9) clause with an authorized deviation is indicated by the addition of “(DEVIATION)” after the name of the regulation.

I.153 DEAR 952.226-74, DISPLACED EMPLOYEE HIRING PREFERENCE (JUNE 1997)

- (a) Definition.

Eligible employee means a current or former employee of a contractor or subcontractor employed at a Department of Energy Defense Nuclear Facility (1) whose position of employment has been, or will be, involuntarily terminated (except if terminated for cause), (2) who has also met the eligibility criteria contained in the Department of Energy guidance for contractor work force restructuring, as may be amended or supplemented from time to time, and (3) who is qualified for a particular job vacancy with the Department or one of its contractors with respect to work under its contract with the Department at the time the particular position is available.

- (b) Consistent with Department of Energy guidance for contractor work force restructuring, as may be amended or supplemented from time to time, the contractor agrees that it will provide a preference in hiring to an eligible employee to the extent practicable for work performed under this contract.
- (c) The requirements of this clause shall be included in subcontracts at any tier (except for subcontracts for commercial items pursuant to 41 U.S.C. 403) expected to exceed \$500,000.

I.154 DEAR 970.5223-2, AFFIRMATIVE PROCUREMENT PROGRAM AS MODIFIED BY DOE ACQUISITION LETTER 2008-05 (APR 2008)

- (a) In the performance of this contract, the Contractor shall comply with the requirements of Executive Order 13423 and the U.S. Department of Energy (DOE) Affirmative Procurement Program Guidance. This guidance includes requirements concerning environmentally preferable products and services, recycled content products and biobased products. This guidance is available on the Internet.
- (b) In complying with the requirements of paragraph (a) of this clause, the Contractor shall coordinate its activities with the DOE Recycling Coordinator. Reports required by paragraph (c) of this clause shall be submitted through the DOE Recycling Coordinator.
- (c) The Contractor shall prepare and submit reports, at the end of the Federal fiscal year, on matters related to the acquisition of items designated in EPA's Comprehensive Procurement Guidelines that Federal agencies and their Contractors are to procure with recovered/recycled content.
- (d) If the Contractor subcontracts a significant portion of the operation of the Government facility which includes the acquisition of items designated in EPA's Comprehensive Procurement Guidelines, the subcontract shall contain a clause substantially the same as this clause. The EPA Comprehensive Procurement Guidelines identify products which Federal agencies and their Contractors are to procure with recycled content pursuant to 40 CFR 247. Examples of such a subcontract would be operation of the facility supply function, construction or remodeling at the facility, or maintenance of the facility motor vehicle fleet. In situations in which the facility management contractor can reasonably determine the amount of products with recovered/recycled content to be acquired under the subcontract, the facility management contractor is not required to flow down the reporting requirement of this clause. Instead, the facility management contractor may include such quantities in its own report and include an agreement in the subcontract that such products will be acquired with recovered/recycled content and that the subcontractor will advise if it is unable to procure such products with recovered/recycled content because the product is not available (i) competitively within a reasonable time, (ii) at a reasonable price, or, (iii) within the performance requirements. If reports are required of the subcontractor, such reports shall be submitted to the facility management contractor. The reports may be submitted at the conclusion of the subcontract term provided that the subcontract delivery term is not multi-year in nature. If the delivery term is multi-year, the subcontractor shall report its accomplishments for each Federal fiscal year in a manner and at a time or times acceptable to both parties

- (e) When this clause is used in a subcontract, the word "Contractor" will be understood to mean "subcontractor" and the term "DOE Recycling Coordinator" will be understood to mean "Contractor Recycling Coordinator."

I.155 DEAR 970.5223-5, DOE MOTOR VEHICLE FLEET FUEL EFFICIENCY AS MODIFIED BY DOE ACQUISITION LETTER 2008-05 (APR 2008)

When managing Government-owned vehicles for the Department of Energy, the Contractor will conduct operations relating to such vehicles in accordance with the goals and requirements of Executive Order 13423 and implementing guidance contained in the document entitled U.S. Department of Energy Compliance Strategy for Executive Order 13423 and future revisions of this compliance strategy that are identified in writing by the Contracting Officer. Section 8 of Executive Order 13423 exempts military tactical, law enforcement, and emergency vehicles from the requirements of the order.

I.156 DEAR 970.5226-2, WORKFORCE RESTRUCTURING UNDER SECTION 3161 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993 (DEC 2000)

- (a) Consistent with the objectives of Section 3161 of the National Defense Authorization Act for Fiscal Year 1993, 42 U.S.C. 7274h, in instances where the Department of Energy has determined that a change in workforce at a Department of Energy Defense Nuclear Facility is necessary, the contractor agrees to (1) comply with the Department of Energy Workforce Restructuring Plan for the facility, if applicable, and (2) use its best efforts to accomplish workforce restructuring or displacement so as to mitigate social and economic impacts.
- (b) The requirements of this clause shall be included in subcontracts at any tier (except subcontracts for commercial items pursuant to 41 U.S.C. 403) expected to exceed \$500,000.

I.157 DEAR 970.5226-3, COMMUNITY COMMITMENT (DEC 2000)

It is the policy of the DOE to be a constructive partner in the geographic region in which DOE conducts its business. The basic elements of this policy include: (1) Recognizing the diverse interests of the region and its stakeholders, (2) engaging regional stakeholders in issues and concerns of mutual interest, and (3) recognizing that giving back to the community is a worthwhile business practice. Accordingly, the Contractor agrees that its business operations and performance under the Contract will be consistent with the intent of the policy and elements set forth above.